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BY ELECTRONIC FILING

The Honorable Gregory M. Sleet
United States District Court for the District of Delaware
844 North King Street
Lockbox 19
Wilmington, DE 19801

RE: IHS Liquidating, LLC v. ACE Indemnity Insurance Co. f/k/a Indemnity
Insurance Co. of North America, Civil Action No. 05-376 (GMS)

Dear Judge Sleet:

In anticipation of the discovery teleconference scheduled for Tuesday, February 20, 2007 at 3:00 p.m. in the above-captioned matter, the parties jointly submit the following items to be presented to the Court.

This case concerns the parties' rights and responsibilities under certain insurance policies issued to the plaintiff's predecessor corporations covering the period from January 1, 1999 to January 1, 2000 (the "1999 Policies"). Defendant Indemnity Insurance Co. of North America ("IICNA") filed a motion to amend its pleadings to, among other things, state counterclaims and cross claims arising under insurance policies covering the period from January 1, 2000 to January 1, 2001 (the "2000 Policies") issued to the predecessor entities. *See* Docket No. 29. In part because it alleges that the 2000 Policies have an additional party in interest, the plaintiff, IHS Liquidating LLC, has opposed IICNA's motion to amend. *See* Docket No. 38. The 2000 Policies are the subject of another action currently pending before this court. *Indem. Ins. Co. of N. Am. v. Integrated Health Servs. and Abe Briarwood Corp.*, Civ. Action No. 04-1262 (GMS) (the "Briarwood Action"). The allegations contained in the Briarwood Action which are related to the 2000 Policies arise from the allegedly improper assignment of IICNA's policy by Integrated Health Services, Inc. to Abe Briarwood Corp., without IICNA's consent. Abe Briarwood Corp. is not a party to this action, and the third-party defendants in this action (National Union Fire Insurance Co. and General Star Indemnity Co.) are not parties to the Briarwood Action.

The 2000 Policies are also the subject of a civil action in Florida state court. *Indemnity Ins. Co. of N. Am. v. Nat'l Union Fire Ins. Co. of Pittsburgh, PA*, No. 05-8449, Circuit Court, 13th Judicial Circuit (Hillsborough County). All proceedings in that action, including discovery, were stayed by order of the Honorable James M. Barton II on May 19, 2006.

The parties to this action dispute whether, in light of the foregoing, IICNA may take discovery related to the 2000 Policies or to other topics newly raised in its proposed amended complaint. Specifically, the parties dispute whether IICNA may take such discovery in the

absence of a court order granting IICNA's motion to amend its pleading; in the absence of the alleged additional party in interest; and in view of the stay ordered by the Florida court.

In addition to the foregoing issues, third-party defendant National Union Fire Insurance Co. of Pittsburgh, PA ("National Union") respectfully requests that the Court extend the fact discovery deadline in this case currently set for February 28, 2007, by 30 days, to March 28, 2007, solely for the purpose of completing the depositions already noticed. National Union further respectfully requests that the Court extend the deadline to file dispositive motions in this case to April 14, 2007. National Union requests this additional time to complete depositions in this case, and, if necessary upon completion of discovery, to file a dispositive motion. National Union submits that the change in the deadlines set forth below will not conflict with the pretrial conference previously set by the Court.

The undersigned certifies that this letter has been reviewed by Ward A. Rivers, Esq., counsel for defendant IICNA; and Christopher P. Simon, Esq., counsel for third-party defendant National Union Fire Insurance Co. of Pittsburgh, PA. Lee Stremba, Esq., counsel for plaintiff IHS Liquidating LLC, reviewed an earlier draft of this letter.

Respectfully,

/s/ James F. Harker

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cc: Clerk of the Court
Counsel of Record (see attached certification)

CERTIFICATION

THIS IS TO CERTIFY THAT a copy of the foregoing was mailed via first class mail, postage prepaid, this date, to:

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